

Panaji, 17th February, 2004 (Magha 28, 1925)

SERIES I No. 46

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

### SUPPLEMENT

#### GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/F-3/5256/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Goa Co-operative Societies (Amendment) Bill 2004

(Bill No. 11 of 2004)

A

BILL

to amend the Goa Co-operative Societies Act, 2001.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Co-operative Societies (Amendment) Act, 2004.

(2) It shall come into force from the date of enforcement of the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001).

2. *Amendment of section 2.*— In section 2 of the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) (hereinafter referred to as the "principal Act"),—

(i) after clause (2), the following clause shall be inserted, namely:—

"(2a) "apex co-operative bank" means a federal co-operative bank having jurisdiction over the whole of the State of Goa and recognized as such by the State Government for the purpose; ";

(ii) after clause (22), the following clause shall be inserted, namely:—

"(22a) "general society" means a society not falling in any of the class of societies as defined in section 2 of the Act;";

(iii) In clause (29), for the words, figures and brackets "Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984)", the words, figures and brackets "Multi State Co-operative Societies Act, 2002 (Central Act 39 of 2002)" shall be substituted.

3. *Amendment of section 11.*— In section 11 of the principal Act,—

(i) in sub-section (1), after the words "forwarded to the Registrar", the words "alongwith the prescribed fee" shall be inserted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) An appeal against a decision to refuse to register amendment of the bye-laws of a

society which has been communicated to the society under sub-section (2) shall lie before the Co-operative Tribunal within a period of 60 days from the date of communication of such decision."

4. *Insertion of new section 20A.*— After section 20 of the principal Act, the following new section 20A shall be inserted, namely:—

"20 A. *Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.*— Notwithstanding anything contained in section 15 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is amalgamated or re-organised and the Deposit Insurance and Credit Guarantee Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated or the new co-operative bank formed after such amalgamation, or, as the case may be, the insured bank or the transferee bank, shall be under an obligation to repay to the Deposit Insurance and Credit Guarantee Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961)."

5. *Insertion of new sections 92 A and 92 B.*— After section 92 of the principal Act, the following new sections 92 A and 92 B shall be inserted, namely:—

"92 A. *Winding up of co-operative bank at the direction of the Reserve Bank:*—

(i) Notwithstanding anything to the contrary contained elsewhere in this Act, the Registrar shall make an order for the winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).

92 B. *Reimbursement to the Deposit Insurance and Credit Guarantee Corporation by liquidator.*— Where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is wound

up and the Deposit Insurance and Credit Guarantee Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance and Credit Guarantee Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act."

6. *Amendment of section 93.*— In section 93 of the principal Act,—

(i) for sub-section (1), the following shall be substituted, namely:—

"(1) When an interim order or a final order is passed under section 92 or an order is passed under section 92A, as the case may be, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the liquidator of the society, and fix his remuneration;"

(ii) in sub-section (2), for the expression "On issue of the interim order," the expression "On issue of the interim order under section 92 or on the issue of an order under section 92 A, as the case may be," shall be substituted;

(iii) in sub-section (3), for the expression "When a final order is passed confirming the interim order," the expression "When a final order is passed confirming the interim order under section 92 or an order is passed under section 92 A, as the case may be," shall be substituted.

7. *Insertion of new section.*— After section 94 of the principal Act, the following new section 94A shall be inserted namely:—

"94A. *No appeal in certain cases.*— Notwithstanding anything contained in this Act, where, with the previous sanction in writing of, or on requisition by the Reserve Bank, a co-operative bank:—

(a) is being wound up; or

(b) in respect of which a scheme of amalgamation or re-organization is given effect to,

no appeal there against shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question".

8. *Amendment of section 96.*— In section 96 of the principal Act, for the expression "or where the appeal has been dismissed, ", the expression "or where the appeal has been dismissed or where an order has been passed under section 92A," shall be substituted.

9. *Amendment of section 99.*— In section 99 of the principal Act, for the expression "under sub-section (2) of section 92," the expression "under sub-section (2) of section 92 or from the date of the order under section 92A, as the case may be," shall be substituted.

10. *Amendment of section 107.*— In sub-section (1) of section 107 of the principal Act, for the words "may give its consent", the expression "may, subject to payment of prescribed non-occupancy fees to the society, give its consent" shall be substituted.

#### Statement of Objects and Reasons

It is proposed to amend section 2 of the Goa Co-operative Societies Act, 2001 (Act 36 of 2001) by inserting new clauses (2a) and (22a) therein so as to define "apex co-operative bank" and "general society". Amendment to clause (29) of section 2 of the Act, 2001, is proposed on account of repeal of the Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984) by the Multi State Co-operative Societies Act, 2002 (Central Act 39 of 2002). It is also proposed to amend section 11 of the said Act, 2001 by inserting new sub-section (5) therein so as to make provision for filing appeal against a decision to refuse to register an amendment of the byelaws of a society.

Further, on the advise of the Reserve Bank of India, it is proposed to insert new section 20A, 92A, 92 B and 94 A in the Act, 2001, so as to make co-operative banks eligible for insurance cover under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961). Section 107 of the said Act, 2001, is also proposed to be amended so as to make provision for payment of non-occupancy fees in case of letting out of plot of land or dwelling unit.

This Bill seeks to achieve the above objects.

#### Financial Memorandum

No financial implications are involved in this Bill.

#### Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Panaji - Goa.  
Dated : 9-2-2004.

VINAY TENDULKAR  
Minister for Cooperation

Assembly Hall,  
Porvorim-Goa,  
Dated : 9-2-2004.

S. A. NARVEKAR  
Secretary (Legislature).

#### ANNEXURE

Extract from the Goa Co-operative Societies Act, 2001  
(Goa Act 36 of 2001)

2. *Definitions.*— In this Act, unless the context otherwise requires;-

(1) "agricultural marketing society" means a society,—

- (a) the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production and
- (b) not less than three-fourths of the members of which are agriculturists, or societies formed by agriculturists

(2) "agricultural service co-operative society" means an agricultural co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers;

(3) "apex society" means a society, the area of operation of which extends to the whole of the State of Goa, and the main object of which is to promote the principal objects of the societies affiliated to it as members and provide for the facilities and services to them and which has been classified as an apex society by the Registrar;

(4) "area of operation" means the area from which the membership is drawn or specified in the bye-laws;

(5) "auditor" means a person appointed by the Registrar or by a society, to audit the accounts of the society;

(6) "board of directors" means the governing body or the committee of management of a society, by whatever name called, in which the management of the affairs of a society is vested;

(7) "bye-laws" means bye-laws prescribed under the Rules and registered under this Act and include registered amendments of such bye-laws;

(8) "central bank" means a co-operative bank, the object of which includes the creation of funds to be loaned to other societies but does not include the urban co-operative bank;

(9) "chief executive" with whatever designation called, means an individual, who, subject to the superintendence, control and direction of the board of directors, has been entrusted by the board, with the management of the affairs of the society;

(10) "co-operative farming society" means a co-operative society the principal object of which is to organise cultivation of lands held by it or by its members, jointly or otherwise, with a view to increasing agricultural production and employment by proper utilization of land, labour and other resources;

(11) "consumers co-operative society" means a co-operative society the primary object of which is the procurement and distribution of goods to, or the performance of other services for its members as also other customers;

(12) "co-operative tribunal" means the Goa Co-operative Tribunal constituted under section 114 of this Act;

(13) "co-operative housing society" means a society as defined in section 102 of this Act.

(14) "co-operative bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949 (Central Act X of 1949);

(15) "co-operative credit society" means a co-operative society the primary object of which is to create funds for lending money to its members;

(16) "co-operative authority" means the authority constituted under section 84 of this Act to decide disputes referred to it under any of the provisions of this Act;

(17) "co-operative year" means a year or period ending on the thirty-first day of March;

(18) "director" means a member of the board of directors;

(19) "dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;

(20) "federal society" means a society,—

(a) not less than five members of which are themselves societies, and

(b) in which the voting rights are so regulated that the members which are societies have not less

than four-fifths of the total number of votes in the general meetings of such society;

(21) "general body" in relation to a primary society, means all the members of the primary society and in relation to a federal society and apex society, means all the delegates of the member societies and includes a representative general body constituted under section 69 of this Act;

(22) "general meeting" means a meeting of the general body of a society;

(23) "Government" means the Government of Goa;

(24) "industrial co-operative society" means a co-operative society, the object of which includes manufacture, processing and marketing of goods by, or with the help of its members and providing supplies and services to them;

(25) "joint member" means a member who holds jointly a share of a society with another but whose name does not stand first in the share certificate;

(26) "lift irrigation society" means a society, the object of which is to provide water supply by motive power or otherwise to its members for agriculture, horticulture and other purposes;

(27) "Liquidator" means a person appointed as liquidator under section 93 of the Act;

(28) "member" means an individual or entities mentioned in section 21 joining in the application for the registration of a co-operative society which is subsequently registered, or duly admitted to membership of a society after registration and includes a joint member;

(29) "multi State society" means a co-operative society which is registered or deemed to be registered under the Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984);

(30) "mutually aided society" means a society which does not have any share capital, loans or any financial assistance from the State or the Central Government except with a Memorandum of Understanding with the Government;

(31) "officer" means a person elected or appointed to any office of a society according to its bye-laws; and includes a chairman, vice-chairman, president, vice-president, secretary, treasurer, member of the board of directors, managing director, chief executive, manager and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society;

(32) "Official assignee" means a person appointed by the Registrar to Act as an Official assignee under section 20 of the Act;

(33) "Official gazette" means the Official Gazette of the Government;

(34) "patronage refund" means annual refund to members in proportion to their transactions with the society during the year;

(35) "prescribed" means prescribed by rules;

(36) "primary society" means a society whose membership is available only to individuals;

(37) "processing society" means a society the object of which is the processing of goods;

(38) "producers' society" means a society, the object of which is the production and disposal of goods or the collective disposal of the labour of the members thereof;

(39) "resource society" means a society, the object of which is the obtaining for its members of credit, goods or services required by them;

(40) "Registrar" means a person appointed under section 4 of this Act and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred;

(41) "rules" means rules made under this Act;

(42) "State" means the State of Goa;

(43) "society" means a co-operative society registered or deemed to be registered under this Act;

(44) "society with limited liability" means a society having the liability of its members limited by its bye-laws;

(45) "state aided society" means a society which is not a mutually aided society;

(46) "surplus" means the net excess of income over the expenditure;

(47) "year" means a Co-operative year as defined in this Act;

11. *Amendment of bye-laws of society.*— (1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed by a majority of not less than two third of the members entitled to vote who are present at a general meeting of the society shall be forwarded to the Registrar.

(2) Every application for registration of an amendment of the bye-laws shall be decided and communicated to the society by the Registrar within a period of forty five days from the date of its receipt.

(3) In case of refusal of amendment, if the decision is not communicated to the society, with the reasons therefor, within the said period of forty five days, the said amendment of the bye-laws shall be deemed to have been registered.

(4) Where the Registrar registers an amendment of the bye-laws of a society or where the amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of the amendment certified by him which shall be conclusive evidence that the same is duly registered.

20. *De-registration of Societies.*— (1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the chief promoter, the Board of Directors and the members of the society, de-register the society:

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the proceedings of de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the chief promoter and the members of the Board of Directors of the society, and no proceedings in respect of the de-registration of the society shall be called in question in any court merely on the ground that individual notice is not served on any such member.

(2) When a society is de-registered under the provisions of sub-section (1), the Registrar may, notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official assignee as the circumstances may require.

(3) The official assignee shall realize the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of the property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The Official assignee shall be paid such remuneration and allowances as may be prescribed, and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowance.

(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any person or persons

on whom all or any of the powers of the Registrar are conferred under section 4.

92. *Winding up.*— (1) If the Registrar,—

- (a) after an inquiry has been held under section 77 or on the report of the auditor auditing the accounts of the society, or
- (b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special meeting called for the purpose, or
- (c) of his own motion, in the case of a society which—
  - (i) has not commenced working, or
  - (ii) has ceased working, or
  - (iii) possesses shares or members' deposits not exceeding five hundred rupees, or
  - (iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws, is of the opinion that a society ought to be wound up, he may issue an interim order directing it to be wound up.

(2) A copy of such order made under sub-section (1) shall be communicated in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order. The final order shall be published in the Official Gazette.

93. *Appointment of Liquidator.*— (1) when an interim order is passed under the last preceeding section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the Liquidator of the society, and fix his remuneration.

(2) On issue of the interim order, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society, and shall have no access to any of them.

(3) When a final order is passed confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force, the general body of the society shall not exercise any powers.

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 95. The Registrar may remove such person and appoint another in his place, without assigning any reason.

(5) The whole of the assets of the society shall on the appointment of Liquidator under this section, vest in such Liquidator, and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by a Liquidator on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected, and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(6) In the event of the interim order being vacated, the person appointed as Liquidator shall hand over the property, effects and actionable claims and books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by the Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been cancelled under the preceding section, be continued by the officers of the society.

94. *Appeal against order of winding up.*— (1) The board of directors or any member of the society ordered to be wound up, may, within two months from the date of the issue of the final order made under section 92, appeal to the Co-operative tribunal.

(2) No appeal from a member under this section shall be entertained unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

96. *Effect of order of winding up.*— After expiry of the period for appeal against the order made under section 92 or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the Liquidator shall proceed to realize the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose.

99. *Termination of liquidation proceedings.*— (1) The winding up proceedings of a society shall be closed as soon as practicable within six years from the date of the final order under sub-section (2) of section 92, unless the period is extended by the Registrar:

Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and

four years in the aggregate, and shall, immediately after the expiry of ten years from the date aforesaid, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

*Explanation.*— In the case of a society which is under liquidation at the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the date of such commencement.

(2) Notwithstanding anything contained in the foregoing sub-section, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property of and the claims of the society have been disposed of and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount (if any) standing to the credit of the society in liquidation, after paying off its liabilities including the share or interest of members, and suggest how the surplus should be utilised.

(3) The Registrar, on receipt of the final report from the Liquidator, shall direct the Liquidator to convene a general meeting of the members of the society for recording his final report.

107. *Restriction on letting out.*— (1) Notwithstanding anything contained in any other law for the time being in force, no member of a co-operative housing society who has been allotted a plot of land or dwelling unit in a building over a period of three months shall part with the possession of such plot or dwelling unit, as the case may be, without the written consent of the board of directors of the society. On an application made in this behalf by the member concerned, the board of directors may give its consent or refuse such consent for reasons to be recorded in writing and communicate its decision to the members within thirty days from the date of receipt of his application.

(2) If the board of directors fails to take decision on the application within thirty days from the date of its receipt or refuses such consent, the member shall have a right to appeal to the co-operative authority.

Assembly Hall,  
Porvorim-Goa.  
9<sup>th</sup> February 2004.

S. A. NARVEKAR  
Secretary (Legislature).

LA/F-3/5257/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The City of Panaji Corporation  
(Amendment) Bill, 2004

(Bill No. 10 of 2004)

A

BILL

to amend the City of Panaji Corporation Act, 2002  
(Goa Act 1 of 2003).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the City of Panaji Corporation (Amendment) Act, 2004.

(2) It shall be deemed to have come into force on the 1<sup>st</sup> day of April, 2003.

2. *Amendment of section 17.*— In section 17 of the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003), in sub-section (2), for the words "from the date of publication of this Act in the Official Gazette", the words "from the date of its constitution" shall be substituted.

#### Statement of Objects and Reasons

The proposed Bill seeks to amend sub-section (2) of section 17 of the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003) so as to provide that the Corporation formed immediately after the commencement of the said Act, 2002 shall continue for a period of one year from the date of its constitution. This amendment is proposed so as to enable the Government to complete certain formalities required for holding of the elections to the Corporation, which formalities are presently under process.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

(DIGAMBAR V. KAMAT )

Panaji-Goa. Minister for Urban Development  
9 February, 2004.

Assembly Hall,  
Porvorim-Goa.  
9 February, 2004.

SUDHIR NARVEKAR  
Secretary (Legislature)

ANNEXURE

Extract of the Section 17 of the City of Panaji  
Corporation Act, 2002.

17. *Duration of the term of the Corporation.*— (1) The Corporation shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting and no longer.

(2) A Corporation formed immediately after the commencement of this Act shall continue for a period of one year from the date of publication of this Act in the Official Gazette or until the new elections are held under the provisions of this Act, whichever is earlier:

Provided however, the State Government may extend the term of the Corporation referred to in sub-section (2) above not beyond a period of six months, after the expiry of one year, for exceptional reasons.

LA/F-3/5258/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Education Development Corporation  
(Amendment) Bill, 2004

(Bill No. 9 of 2004)

A

BILL

to amend the Goa Education Development  
Corporation Act, 2003 (Act No. 22 of 2003).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.* — (1) This Act may be called the Goa Education Development Corporation (Amendment) Act, 2004.

(2) It shall come into force at once.

2. *Amendment of section 4.*— In Section 4 of the Goa Education Development Corporation Act, 2003 (Act 22 of 2003), in sub-section (1), —

(a) for the word “five”, the word “seven” shall be substituted;

(b) in clause (c), for the words “an educationist”, the words “two educationists” shall be substituted;

(d) in clause (d), for the words “a person”, the words “two persons” shall be substituted.

Statement of Objects and Reasons

Under the existing provisions of sub-section (1) of section 4 of the Goa Education Development Corporation Act, 2003, (Act No.22 of 2003), the Corporation shall consist of five directors, of which, an educationist, under clause (c), and a person having shown capacity in developing and building of institutions of excellence, in the field of education, under clause (d), shall be nominated by the Government.

In order to avail the wider range of expertise in the field of education in the State, and for effective discharge of the functions of the Corporation, it is proposed to amend said sub-section (1) of section 4 of the said Act, 2003 thereby increasing the number of directors to seven by empowering the Government to nominate one more educationist and one more person having shown capacity in developing and building of institutions of excellence, in the field of Education.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated legislation

No delegated legislation is envisaged in this Bill.

Porvorim, Goa.  
9<sup>th</sup> February, 2004.

MANOHAR PARRIKAR  
Minister for Education

Assembly Hall,  
Porvorim, Goa.  
9<sup>th</sup> February, 2004.

SUDHIR NARVEKAR  
Secretary (Legislature).



ANNEXURE

Extract of Section 4 of The Goa Education Development Corporation Act dated 18-11-2003

4. *Constitution*.— (1) The Corporation shall consist of the following five directors, that is to say. —

(a) Secretary to the Government of Goa (in the department of Higher Education or Education);

(b) Director (Technical Education or Higher Education or Education);

(c) An educationist, to be nominated by the State Government;

(d) A person having shown capacity in developing and building of institutions of excellence in the field of education, to be nominated by the State Government;

(e) The Managing Director of the Corporation, who shall be the Chief Executive Officer of the Corporation and shall also be the ex officio Secretary to the Corporation;

(2) The State Government shall appoint one of the directors of the Corporation to be the Chairman of the Corporation.

LA/F-3/5259/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 2004

(Bill No. 8 of 2004)

A

BILL

further to amend the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement*.— (1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 2004.

(2) Section 2 of this Act shall be deemed to have come into force on the 27th day of September, 1995, and section 3 and 4 of this Act shall be deemed to have come into force on the 16th day of April, 1993.

2. *Amendment of section 2*.— In item (i) of clause (i) of section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976) (hereinafter referred to as the "principal Act"),—

(a) in sub-item (a), after the expression "if the land is" and before the expression "with the jurisdiction", the words "on the appointed date" shall be inserted;

(b) in first proviso to sub-item (b), after the word "word" and before the expression "the dwelling house", the words "on the appointed date" shall be inserted.

3. *Amendment of section 15*.— In sub-section (3) of section 15 of the principal Act, after the words "house purchased" and before the words "and the improvement thereon", the words "as prevailing on the appointed date" shall be inserted.

4. *Validation of notices, inquiries, disputes, orders, etc.*— Notwithstanding anything contained in any Judgement and or order passed by any Court, all notices given, inquiries held, disputes decided, orders taken or made and all acts done and all proceedings taken by the concerned authorities in exercise of the powers conferred under the principal Act, from the 16th day of April, 1993, in respect of the exercise of the right of purchase of the dwelling house by a mundkar, shall be deemed to be and always to have been validly done, given, held, decided, taken, made or executed, as the case may be, in accordance with the principal Act.

Statement of Objects and Reasons

In order to enable the mundkars living within such Village Panchayat areas which were to be merged with Municipal Council, to get a fair deal, section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act 1 of 1976), was amended vide the Goa Mundkars (Protection from Eviction) (Amendment) Act, 1955 (Goa Act 2 of 1996), so as to provide that the crucial date of determination of the area to be allotted to the mundkar should be the "appointed date" which is defined in section 2 (e) of the said

Act, i.e. 12-3-1976. This was done to protect the rights of the mundkars living in panchayat areas which are merged with a Municipal Council.

Further it was noticed that some of the Mamlatdars/Joint Mamlatdars, while determining the purchase price payable by mundkars for dwelling house, had taken into consideration the basis of the market value prevailing in the vicinity of the locality at the time of fixing the said price. The aforesaid approach did not appear to be on sound footing since the appointed date when the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act 1 of 1976), came into force was 12-3-1976 and the right of the mundkars to purchase dwelling house came into existence on that date and hence the purchase price had to be as on the appointed date i.e. 12-3-1976 and consequently the market value thereof was required to be determined as prevailing on that date. Hence, Section 15 of the said Act, 1975, was similarly amended vide the Goa Mundkars (Protection from Eviction) (Amendment) Act, 1993 (Goa Act 6 of 1995).

By Judgement dated 16-12-2003, the Hon'ble High Court of Bombay at Goa in Writ Petition No. 86/1997 held that the said Amendment Acts of 1993 and 1995 are ultra virus Article 14 read with Article 13(2) of the Constitution of India and inter alia observed as follows:- "..... the record clearly establishes that the assertion made by the petitioner (Dr. Vasudeo R. Deshpurabhu) that both the Amendment Acts are neither included in Ninth Schedule to the Constitution, nor have received the assent of the President of India has remained uncontroverted. In our view that position is indisputable. As a consequence, the Amendment Acts will not receive protection for either under Article 31 A, Article 31 B or Article 31 C of the Constitution of India. It is well settled that mere inclusion of the principal Act in the Ninth Schedule does not automatically result in extending the protection of Article 31 B of the Constitution, on the ground that the amendments were ancillary or incidental to the principal provision. Whereas, inclusion of even the Amendment Acts in the Ninth Schedule to the Constitution, which are passed after the Principal Act was inserted in the Ninth Schedule to the Constitution, is an imperative." Considering that the Mundkar Act of 1975 is a beneficial piece of legislation aimed at protecting the mundkars from eviction from their dwelling house and is also a feature of agrarian reform, so also with a view to

restore to the mundkars the benefits as were provided to them under the said quashed Goa Acts 2 of 1996 and 6 of 1995, it is felt necessary that the said quashed Amendment Acts i.e. Goa Acts 2 of 1996 and 6 of 1995 are reintroduced as a fresh Bill and passed for the purpose of obtaining Presidential assent and for its inclusion in the Ninth Schedule to the Constitution of India through an Act of Parliament so that the defects as observed by the Hon'ble High Court of Bombay at Goa in its judgment in said Writ Petition No. 86/1997 are removed and this amendment is rendered immune from judicial scrutiny.

This Bill seeks to achieve the above objects.

#### Financial Memorandum

No financial implications are involved in this Bill.

#### Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Panaji-Goa                      PANDURANG MADKAIKAR  
9th February, 2004.              Minister for Revenue

Assembly Hall,                      S. A. Narvekar  
Porvorim, Goa                      Secretary (Legislature).  
9th February, 2004.

#### A N N E X U R E

Extract of Section 2 and Section 15 of the Goa Mundkars (Protection from Eviction) Act, 1975 as it stood prior to Amendments of 1995 and 1996

Section 2. (i) "Dwelling house" means the house in which mundkar resides with a fixed habitation and includes—

(i) (a) the land on which the dwelling house is standing and the land around and appurtenant to such dwelling house, subject to a maximum limit of five metres, if the land is within the jurisdiction of a village panchayat, and two metres, if it is not within such jurisdiction, from the outer walls of the dwelling house:

Provided that, where the distance between the outer walls of the dwelling house of the mundkar and of the

house of the bhatkar, or between the outer walls of the dwelling house of a mundkar and of the dwelling house or houses of one or more mundkars, is less than double the aforesaid limit the land appurtenant to such dwelling house shall be half of the land lying between the outer walls of the dwelling house of such mundkar and the bhatkar or between the outer walls of the dwelling house of such mundkar and the outer walls of the dwelling house or house of such other mundkar or mundkars, as the case may be, or

(b) Three hundred square metres of land including the land on which the dwelling house is standing:

Provided that where the dwelling house is within the jurisdiction of a municipal council, the dwelling house shall include two hundred square metres of land including the land on which the dwelling house is standing:

Provided further that where there is on the appointed date in the property of the bhatkar, the house of the bhatkar or a dwelling house of one or more than one mundkar, and the total extent of the land is inadequate to provide each of them the extent indicated in this clause, the dwelling house shall include, in the absence of any agreement, the land apportioned in equal shares, as far as practicable, by the Mamlatdar.

*Explanation I.*— The option contemplated under this clause shall be exercised by the mundkar in the manner prescribed.

*Explanation II.* — For the purpose of this clause "house" means an Dharmashala or such other building belonging to or in possession of a religious or charitable institution and is used for temporary accommodation and such other building as may be meant for letting out on hire and a portion of which has been let out.

(ii) the cattle shed, stable, pig-sty, workshop or such other structure connected with the business or profession of the mundkar; and

(iii) the customary easement, if any, which the residents of the dwelling house have been enjoying for a access to a public road or a well or any other place;

**Section 15.— Right of mundkar to purchase the dwelling house.**— (1) Notwithstanding anything to the contrary contained in any law for the time being in force, a mundkar shall, subject to the provisions of this Act have the right to purchase the dwelling house occupied by him.

(2) The maximum extent of land around or appurtenant to the dwelling house which a mundkar is entitled to purchase under this section shall be as indicated under sub-clause (i) of clause (i) of section 2.

(3) The purchase price payable by the mundkar for his dwelling house shall be the market value of the

dwelling house purchased and the improvement thereon, other than the improvement, if any, belonging to the mundkar:

Provided that, when the house, hut or any structure with its materials belong, wholly or partly, to the mundkar, the corresponding value shall be deducted from the market value and, in such case, the purchase price shall be the balance left after deducting the corresponding value from the market value:

(1) Provided further that —

(a) when a mundkar has been permitted to occupy the dwelling house by the bhatkar for the purpose of cultivation of or for the purpose of watching and protecting, an agricultural land of the bhatkar and is actually rendering such service and continues to render such service with or without remuneration; or

(b) where a mundkar is an agricultural labourer or a village artisan; or

(c) where the annual income of a mundkar, being a person belonging to Scheduled Castes or the Scheduled Tribes and not falling under clause (a) or clause (b), from all sources does not exceed rupees three thousand and six hundred;

then, the purchase price payable by such mundkar and a member of his family shall be twenty percent of the market value payable.

*Explanation.*— For the purposes of this sub-section—

(a) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 of the Constitution to be Scheduled Castes in relation to the Union Territory of Goa, Daman and Diu;

(b) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 of the Constitution to be Scheduled Tribes in relation to the Union territory of Goa, Daman and Diu;

(4) The purchase price payable under sub-section (3) in respect of the dwelling house shall be paid in not more than ten equal annual instalments:

Provided that, it shall be open to the mundkar to pay the entire purchase price in lumpsum, in which case, the amount payable shall be only ninety per cent of the purchase price.

(5) The market value of the dwelling house, shall be decided by the Mamlatdar, after making such inquiry as he deems necessary and in the prescribed manner.

LA/F-3/5260/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa Labour Welfare Fund  
(Amendment) Bill, 2004**

(Bill No. 7 of 2004)

A

BILL

*further to amend the Goa, Daman and Diu Labour Welfare Fund Act, 1986.*

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Labour Welfare Fund (Amendment) Act, 2004.

(2) It shall come into force at once.

2. *Amendment of section 3.*— In section 3 of the Goa, Daman and Diu Labour Welfare Fund Act, 1986 (Act 4 of 1987) (hereinafter referred to as the "principal Act"), in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

"(c) contribution made by employers, employees and the Government;"

3. *Amendment of section 14.*— In section 14 of the principal Act,—

(i) for the existing heading, the following heading shall be substituted, namely:—

"14. Contribution to fund by employers, employees and the Government.-";

(ii) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every employee shall contribute rupees sixty per year to the Fund and every employer and the Government shall, in respect of each such employee, contribute rupees one hundred and eighty and rupees one hundred and twenty respectively, per year to the Fund".

4. *Amendment of section 16.*— In section 16 of the principal Act, in sub-section (2), after clause (p), the following clause shall be inserted, namely:—

"(q) any Scheme approved by the Government for the benefit of retrenched workmen and other workmen affected by closure of industrial establishments."

**Statement of Objects and Reasons**

In terms of sub-section (1) of section 14 of the Goa, Daman and Diu Labour Welfare Fund Act, 1986 (Act 4 of 1987), every employee shall contribute twelve rupees per year to the Fund and every employer shall in respect of each such employee, contribute thirty six rupees per year to the Fund.

In order to finance Schemes framed by the Government for the benefit of retrenched workmen and other workmen affected by closure of industrial establishments, it is proposed to amend said sub-section (1) of section 14 of the said Act by raising the existing contribution of employees from rupees twelve to rupees sixty and that of employer from rupees thirty six to rupees one hundred and eighty per year. Provision is also made in proposed amendment for contribution by the Government at the rate of rupees one hundred and twenty per year in respect of each such employee.

It is also proposed to insert new clause (q) in sub-section (2) of section 16 of the said Act, providing for utilization of the money in the Fund on the Schemes framed for the benefit of retrenched workmen.

This Bill seeks to achieve the above objects.

**Financial Memorandum**

There are financial implications involved in this Bill. Exact financial implications cannot be quantified at this stage, however, the same may be approximately 90 lakhs per annum.

**Memorandum Regarding Delegated Legislation**

No delegated legislation is envisaged in this Bill.

Assembly Hall,  
Porvorim, Goa,  
Dated: 9-2-2004.

DR. SURESH AMONKAR  
Minister for Labour

Assembly Hall,  
Porvorim, Goa,  
Dated: 9-2-2004.

S. A. NARVEKAR  
Secretary (Legislature).

Governor's recommendation under Article 207 of the Constitution. In pursuance of Article 207 of the Constitution of India the Governor of Goa, has recommended to the Legislative Assembly of Goa, the introduction and consideration of the Goa Labour Welfare Fund (Amendment) Bill, 2004.

#### ANNEXURE

Extract of the Goa, Daman and Diu Labour Welfare Fund Act, 1986

##### Section 1

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa, Daman and Diu Labour Welfare Fund Act, 1983.

(2) It extends to the Whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint in this behalf.

##### Section 3

*Labour Welfare Fund.*— (1) The Government shall constitute a fund called the Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid at such intervals as may be prescribed, to the Board, and be credited to the Fund and the Board shall keep a separate account therefore until claims thereto have been decided in the manner provided for in section 12.

(2) There shall also be credited to the Fund—

- (a) Unpaid accumulations paid to the Board under sub-section (2) of section 12;
- (b) Deductions made under the proviso to sub-section (2) of section 9 of the Payment of Wages Act, 1936 (Central Act 4 of 1936);
- (c) Contribution made by employers and employees;
- (d) any interest by way of penalty paid under section 13;
- (e) any voluntary donations;
- (f) any fund transferred under sub-section (5) of section 16;
- (g) any sum borrowed under section 17;
- (h) grants or advances made by the Government; and
- (i) all fines imposed and realised from employers by courts for violations of Labour Laws less the deduction made by court towards administrative expenses.

(3) The sum specified in sub-section (2) shall be paid to, or collected by such agencies, at such intervals and in

such manner and the accounts of the funds shall be maintained and audited in such manner, as may be prescribed.

##### Section 14

*Contribution to fund by employees and employer.*— (1) Every employee shall contribute Rupees twelve per year to the fund and every employer shall in respect of each such employee contribute Rupees thirty six per year to the fund.

(2) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Act and any rules made thereunder, the employer shall be entitled to recover from the employee the employee's contribution by deduction from his wages in such manner as may be prescribed and such deduction shall be deemed to be a deduction authorized by or under the Payment of Wages Act, 1936 (Central Act 4 of 1936).

##### Section 16

*Vesting an application of Fund.*— (1) The Fund shall vest in and be held and applied by the Board as trustees subject to the provisions and for the purposes of this Act. The money therein shall be utilized by the Board to defray the cost of carrying out measures which may be specified by the Government from time to time to promote the welfare of employees and their dependants.

(2) Without prejudice to the generality of the provisions of sub-section (1), the money in the Fund may be utilized by the Board to defray expenditure on the following namely:—

- (a) community and special education centres, including reading rooms and Libraries;
- (b) vocational trainings;
- (c) games and sports;
- (d) excursions and tours;
- (e) community necessities;
- (f) entertainment and other forms of recreation;
- (g) convalescent homes for tuberculosis patients;
- (h) holiday homes in health resorts;
- (i) home industries and subsidiary occupations for women and unemployed;
- (j) part-time employment for housewives of employees;
- (k) pre-schools, nurseries and creches for employees;
- (l) nutritious food to children of employees;
- (m) employment opportunities to the disabled employees;
- (n) cost of administering this Act including the salaries and allowances of the staff appointed for the purposes of this Act; and
- (o) such other objects as would, in the opinion of the Board, improve the standard of living and ameliorate the social conditions of labour;
- (p) accident and occupational diseases:

Provided that the Fund shall not be utilised in financial any measure which the employer is required under any law for the time being in force to carry out:

Provided further that the fines shall be expended by the Board under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act 4 of 1936) or any other law or agreement for the time being in force.

(3) The Board may, with the approval of the Government, make a grant from the Fund to any local authority or any other body in aid of any activity for the welfare of employees.

(4) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the Government whose decision thereon shall be final.

(5) The Board may accept the transfer of any Labour Welfare Fund or similar fund of any establishment and may continue any activity financed from such Fund, if the said Fund is duly transferred to the Board.

LA/F-3/5261/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Civil Courts (Amendment)  
Bill, 2004

(Bill No. 6 of 2004)

A

BILL

furtherto amend the Goa, Daman and Diu Civil Courts Act, 1965 (Act 16 of 1965).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Civil Courts (Amendment) Act, 2004.

(2) It shall come into force at once.

2. *Amendment of section 26.*— In section 26 of the Goa, Daman and Diu Civil Courts Act, 1965 (Act

16 of 1965) (hereinafter referred to as the "principal Act"), in sub-section (1), for the words "Court of a Senior Civil Judge", the words "District Court" shall be substituted.

3. *Insertion of new section 26A.*— After section 26 of the principal Act, the following section shall be inserted, namely:—

"26A. *Transfer of pending suits and bar on jurisdiction.*— All suits received or registered under section 26 and pending before any Court of a Senior Civil Judge immediately before the commencement of the Goa Civil Courts (Amendment) Act, 2004, shall, on such commencement, stand transferred to the District Court of the concerned district and such District Court may proceed to deal with such suit from the stage which was reached before such transfer or from any earlier stage or *de novo*, as such District Court may deem fit and no Court of any Senior Civil Judge shall entertain, try, dispose off or proceed to hear any matter where the Central Government or the Government of Goa or any officer of the Government in his official capacity, is a party to the proceedings."

Statement of Objects and Reasons

Sub-section (1) of section 26 of the Goa, Daman and Diu Civil Courts Act, 1955 (Act 16 of 1965), inter alia provides that no court other than the Court of a Senior Civil Judge shall receive or register any suit in which the Central Government or the Government of Goa or any officer of Government in his official capacity is a party.

The Bill seeks to amend said sub-section (1) of section 26 of the said Act, 1965, so as to confer jurisdiction of suits filed by the Government or against the Government upon District Court of the respective district, as matters against the Government or by Government are generally important and sensitive matters wherein larger and greater public interest are involved.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Porvorim-Goa, Francisco D'Souza  
9th February, 2004, Minister for Law  
Assembly Hall.

Porvorim-Goa Sudhir A. Narvekar  
9th February, 2004. Secretary (Legislature).  
Assembly Hall.

ANNEXURE

An extract of the Goa, Daman and Diu Civil Courts  
Act, 1965

(Act No. 16 of 1965)

26. Suits in which the Government is a party.—

(1) No Court other than the Court of a Senior Civil Judge shall receive or register any suit in which the Central Government or the Administrator of the Government of Goa, Daman and Diu or any officer of Government in his official capacity, is a party:

Provided that the Administrator may by general or special order notified in the Official Gazette, direct that the provisions of this section shall not apply to any suit or class or category of suits of the nature referred to therein.

(2) Nothing in this section shall be deemed to apply to a suit against the administration of a Government Railway.

LA/F-3/5262/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Medical Practitioners Bill, 2004

(Bill No. 5 of 2004)

A

BILL

to provide for medical treatment only by qualified medical practitioners and to stop unauthorised practice and medical treatment.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Medical Practitioners Act, 2004.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which the provisions of this Act shall come into force;

(b) "appellate authority" means any person or persons or authority appointed by the Government to perform the functions of appellate authority under this Act, and different persons or authorities may be appointed to perform different functions;

(c) "Central Government" means the Government of India;

(d) "competent authority" means any person or persons or authority appointed by the Government to perform the functions of the competent authority under this Act, and different persons or authorities may be appointed to perform different functions;

(e) "dentist" means a dentist as defined under the Dentists Act, 1948 (Central Act 16 of 1948);

(f) "dentistry" shall have the meaning assigned to it under the Dentists Act, 1948 (Central Act 16 of 1948);

(g) "emergency" means the situation when the patient requires immediate medical assistance, which, if not provided promptly, may endanger his life or cause permanent damage;

(h) "Government" means the Government of Goa;

(i) "Government doctor" means a medical practitioner or a dentist who is in employment of the Government/Central Government or any

Undertaking owned and controlled or managed by such Government;

(j) "inspecting authority" means the authority appointed by the competent authority for the purpose of this Act;

(k) "licence" means a licence granted under the provisions of this Act;

(l) "medicine" means modern scientific medicine in all its branches including surgery and obstetrics and includes the Ayurvedic, Unani, Homoeopathic and Siddha system of medicine, but not including veterinary medicine and surgery;

(m) "medical practitioner" means a person who is qualified and engaged in the practice of modern scientific medicine in any of its branches including Surgery and Obstetrics and includes the Ayurvedic, Unani, Homoeopathic and Siddha system of medicine, but not including Veterinary medicine/surgery, and registered in the State of Goa under the law in force for the registration of medical practitioners;

(n) "medical treatment" means treatment in medicine or dentistry given by a qualified and registered medical practitioner or dentist;

(o) "Official Gazette" means the Government Gazette;

(p) "private doctor" means a medical practitioner or a dentist who is not a Government doctor;

(q) "prescribed" means prescribed by rules framed under the provisions of this Act;

(r) "register" means a register of medical practitioners prepared and maintained under this Act.

## CHAPTER II

### Licence

3. *Doctors to be licenced.*— On or after the appointed day, no doctor shall establish a clinic or hospital or nursing home or practice medicine or dentistry in the State of Goa, except under and in accordance with the terms and conditions of a licence granted under the provisions of this Act and the rules made thereunder:

Provided that the doctor already having a clinic or hospital or nursing home or practicing

medicine or dentistry immediately before the appointed day shall also apply for a licence to the competent authority in such form and manner and on payment of such fees as may be prescribed from time to time, within a period of one year from such day as may be notified by the Government in this behalf, and pending orders thereon, may continue to run such clinic or hospital or nursing home or practice medicine or dentistry subject to the provisions of this Act.

*Explanation.*— No Government doctor can apply for a licence nor shall he be entitled for such a licence under the provisions of this Act and the rules made thereunder for so long as he remains in Government service.

4. *Standards.*— Every private doctor engaged in private practice shall conform to the minimum standards as may be prescribed from time to time.

5. *Application for licence.*— Every private doctor desiring to establish, run or maintain a clinic or hospital or nursing home or practice medicine or dentistry in the State of Goa shall make an application to the competent authority in such form and manner and on payment of such fees as may be prescribed from time to time.

6. *Disposal of applications.*— (1) On receipt of an application under section 3 or section 5, as the case may be, and after such enquiry as may be deemed necessary, the competent authority may, within a period of 90 days from the date of receipt of the application, by order, grant the licence subject to such conditions as may be prescribed or refuse to grant the licence, and where the licence is refused, the reasons for such refusal shall be recorded in writing.

(2) Every order under sub-section (1) shall be communicated to the applicant in writing by registered post acknowledgement due within 30 days of such order:

Provided that where no such communication is received within a period of 120 days from the date of receipt of the application, the licence shall be deemed to have been granted, and the competent authority shall accordingly issue the licence within a period of 30 days:

Provided further that if the competent authority fails to issue the license, in terms of the preceding proviso within a period of 30 days, the applicant may apply to the Appellate Authority for issue of such licence, and the appellate authority may



after making necessary inquiries pass necessary orders for issue of such licence.

7. *Factors to be taken into account in disposing of application.*— In disposing of an application under section 6, the competent authority shall have regard to the following factors:—

(a) whether the private doctor is holding the qualifications prescribed by a statute or an enactment or allied laws in any system of medicine/dentistry recognised by the Government/Central Government and is registered with the Medical Council of India/Dental Council of India or the Goa Medical Council/Goa Dental Council or the Goa Board of Indian System of Medicine and Homoeopathy;

(b) whether the place where private practice is carried on is hygienically suitable and conforms to the minimum standards as prescribed under section 4;

(c) where the private doctor has more than one place of private practice, whether all such places conform to the norms as specified in clause (b) above;

(d) such other factors as may be prescribed.

8. *Displaying of licence.*— (a) The licence issued under this Act shall be displayed at the place of private practice. In case where there is more than one place of practice, photocopies of the licence should be displayed at all such places, which are notified in the licence;

(b) The licence number shall be written/typed/printed on the prescription paper of the private doctor;

(c) In case of clinic or hospital or nursing home, details of licences of all the private doctors who are engaged in practice in the said clinic or hospital or nursing home, shall be displayed prominently on the Notice Board;

(d) No private clinic or hospital or nursing home, shall engage or allow to practice any person other than a qualified medical practitioner nor shall it allow any Government doctor to practice, for monetary consideration or otherwise, in its clinic, hospital or nursing home.

9. *Validity of licence.*— A licence granted under this Act shall be valid for a period of five years

from the date of its issue, provided that the licensee is holding or continues to hold a valid registration from the Goa Medical Council or the Goa Dental Council, or the Goa Board of Indian System of Medicine and Homoeopathy, as the case may be.

10. *Renewal of licence.*— A licence granted under this Act may be renewed for a further period of five years on an application made in this behalf to the competent authority in the prescribed form and manner and on payment of prescribed fees, within ninety days before the date of expiry of the licence granted under this Act and thereafter on payment of five times such prescribed fees, provided such application is made within six months.

11. *Suspension or cancellation of licence.*— If on a complaint or information received or otherwise, the competent authority, after holding an inquiry in the matter, is satisfied that a person who has been granted a licence under this Act has committed breach of any of the provisions of this Act and/or the Rules made thereunder or of the conditions of the licence, then the competent authority may suspend the licence for such period as may be deemed fit or cancel the licence:

Provided that no order of suspension or cancellation of a licence under this section shall be made unless the licensee is given an opportunity of being heard in the matter.

12. *Appeal.*— (1) Any person whose application for a licence under this Act is refused and any person aggrieved by any order made under this Act, may prefer an appeal to the appellate authority.

(2) Every such appeal shall be preferred within ninety days from the date of the order referred to in sub-section (1) in such manner and on payment of such fees as may be prescribed from time to time.

(3) The order of the appellate authority on such appeal shall be final.

### CHAPTER III

#### Inspection

13. *Inspections.*— (1) The competent authority or the inspecting authority may at any time, visit a private doctor to verify as to whether the provisions of this Act and the conditions of the licence are being duly observed.

(2) If, as a result of such inspection, any defects or deficiencies are noted, the competent authority or the inspecting authority, as the case may be, may, by order, direct the private doctor to remedy the same within such time as may be specified in the order. Thereupon, the said doctor shall comply with every such direction and submit a compliance report to the competent authority, or the inspecting authority, as the case may be.

14. *Default.*— (1) If any private doctor willfully obstructs or prevents a free access for inspection, the competent authority, after receiving such information, and after giving the concerned person an opportunity of being heard, may, by order, impose a fine which may extend to rupees two thousand.

(2) The fine imposed shall be paid within a period of fifteen days from the date of the order referred to in sub-section (1). In case of non-payment of fine, the same shall be recovered as arrears of land revenue under the law for the time being in force.

(3) In case of defaults exceeding two in a year, the competent authority may suspend the licence for a maximum period of 90 days.

15. *Penalty.*— (1) Whoever contravenes any of the provisions of this Act or of the rules made thereunder or the terms and conditions of a licence, shall be liable, on conviction, to payment of fine of rupees five thousand for the first such offence, and fine of rupees ten thousand and/or imprisonment of six months for every subsequent offence.

(2) An offence under this Act shall be cognizable.

16. *Cognizance and trial of offence.*— No Court inferior to that of Judicial Magistrate First Class shall try any offence under this Act:

Provided that no such Court shall take cognizance of any offence under this Act except on a complaint made by the competent authority or any officer authorized by it, either generally or specially in writing.

17. *Indemnity.*— No suit, prosecution or other legal proceedings shall lie against the Government or any Officer of the Government in respect of anything which is in good faith done or intended to be done by or under this Act.

18. *Rules.*— (1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the minimum standards referred to in section 4;

(b) the form and manner of application and fees under sections 3 and 5;

(c) conditions subject to which licence may be granted under section 6;

(d) other factors to be taken into account under section 7;

(e) the form and manner of application and fees under section 10;

(f) the manner of preferring appeal and fees for appeal under section 12;

(g) any other matter required to be prescribed.

19. *Exemptions.*— (1) In case of emergency, the nearest private doctor shall be bound to attend the patient irrespective of the area/place for which the licence is granted. Likewise, a Government doctor shall not refuse to attend the patient in such an emergency on the ground that he is not allowed to treat the patient at places other than Government Hospitals. Refusal to attend in emergency shall be an offence punishable under section 15 of this Act.

(2) A medical practitioner or a dentist visiting Goa for consultation, diagnostic and surgical procedures in a clinic or a hospital or a nursing home, shall be exempt from the provisions of this Act.

(3) The Government may, if it deems fit to do so in public interest, by order, exempt any special class or category of doctors from registration under the provisions of this Act.

#### Statement of Objects and Reasons

The number of medical practitioners and dentists registered in different systems of medicine and dentistry with the statutory bodies in the State of Goa as on 1-1-2004 is as under:—

(i) Goa Medical Council	....	2046
(ii) Goa Dental Council	....	446
(iii) The Goa Board of Indian System of Medicine and Homoeopathy	...	36

This legislation is intended not only to recognize the qualified medical practitioners and dentists, but also to have effective control over unqualified doctors or quacks who are operating clandestinely to the detriment of the society.

This Bill seeks to achieve the above objects.

#### Financial Memorandum

There are no financial implications involved on the part of the Government as the Act will be administered by the existing machinery. On the contrary, some revenue is expected to be generated by way of licence fee as may be determined once the medical practitioners/dentists/doctors are licenced, which, however, cannot be quantified at this stage.

#### Memorandum Regarding Delegated Legislation

Clause 1 (3) of the Bill empowers the Government to notify the date of coming into the force of the Act. Clause 2(b) of the Bill empowers the Government to appoint an appellate authority for the purposes of the Act, whereas Clause 2(c) of the Bill empowers the Government to appoint a competent authority for the purposes of the Act. Clause 3 of the Bill empowers the Government to prescribe, by way of rules, the form and manner of making application and the fees to be paid by private doctors already having a clinic or hospital or nursing home or practicing medicine or dentistry immediately before the appointed day. Clause 4 of the Bill empowers the Government to frame rules to lay down the minimum standards to which every doctor engaged in private practice shall conform to.

Clause 5 of the Bill empowers the Government to prescribe, by way of rules, the form and manner of making application and the fees to be paid for getting a licence under the Act. Clause 6 of the Bill empowers the Government to specify, by way of rules, the conditions subject to which licence shall be granted. Clause 7 of the Bill empowers

the Government to prescribe the other factors too be taken into consideration for disposing an application under section 6. Clause 10 of the Bill empowers the Government to prescribe, by way of rules, the form and manner of making application and the fees to be paid for renewal of the licence. Clause 12 of the Bill empowers the Government to prescribe, by way of rules, the manner and the fees to be paid for filing an appeal under the Act. Clause 18 of the Bill empowers the Government to make rules for carrying out the purposes of the Act.

These delegations are of normal character.

Assembly Hall,  
Porvorim, Goa,  
Dated: 9-2-2004

Dr. SURESH AMONKAR  
Minister for Health

Assembly Hall,  
Porvorim, Goa,  
Dated: 9-2-2004.

S. A. Narvekar  
Secretary (Legislature).

LA/F-3/5263/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information, in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Goa Children's (Amendment) Bill, 2004

(Bill No. 4 of 2004)

A

BILL

to amend the Goa Children's Act, 2003.

BE it enacted by the Legislative Assembly of Goa in the Fifty fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Children's (Amendment) Act, 2004;

(2) It shall come into force at once.

2. *Amendment of section 9.*— In section 9 of the Goa Children's Act, 2003 (Act 18 of 2003) (hereinafter referred to as the "Principal Act"), in the proviso to sub-section (7), for the word "women" the words "minor girl child" shall be substituted.

3. *Amendment of section 13.*— In section 13 of the principal Act, in sub-section (6), for the words "six months", the words "one year" shall be substituted.

4. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (1), after the words and figure "responsible for violation," and before the words "and take one or more", the following words and figure shall be inserted, namely:—

"to appear before him and to show cause why action should not be taken against him,"

#### Statement of Objects and Reasons

Sub-section (7) of section 9 of the Goa Children's Act, 2003 (Act 18 of 2003) is proposed to be amended so as to substitute the word "women" by the words "minor girl child" as the word "women" was mentioned by oversight.

In terms of sub-section (6) of section 13 of the said Act, 2003, a State Level Authority which may be called the State Commission for Children has to be constituted within a period of six months from the commencement of the Act. As the period of six months has already expired and as the process of consultation with the N.G.Os. and other relevant authorities in order to ensure constitution of an effective authority is likely to be completed soon, it is proposed to amend said sub-section (6) so as to provide for a period of one year from the commencement of the Act for the purpose of constitution of the said State Commission for children.

It is proposed to amend sub-section (1) of section 15 of the Act, 2003, so as to insert certain words therein which are required for the purpose of giving proper meaning to said sub-section (1).

This Bill seeks to achieve the above objects.

#### Financial Memorandum

There are no financial implications in this Bill.

#### Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim Goa,

Dated: 7th February, 2004.

MANOHAR PARRIKAR

Chief Minister

Assembly Hall,

Porvorim, Goa,

Dated: 7th February, 2004.

S. A. NARVEKAR

Secretary (Legislature).

#### ANNEXURE

Extracts of the Goa Children's Act, 2003  
Act No. 18 of 2003

#### SECTION 9

*Child Sexual Trafficking.*— (1) Child Prostitution shall be prohibited.

(2) It shall be the duty of the State to remove all child prostitutes from their existing place of exploitation and to ensure that they are rehabilitated and integrated into society.

(3) The State shall prepare a comprehensive Plan of Action for this purpose which shall include providing education and livelihood skills to such children and the prevention of child prostitution.

(4) Any person who exploits a child for commercial sexual exploitation shall be liable to pay a penalty which may extend to Rs. 1,00,000/- and simple imprisonment of one year. This will be in addition to any penalty or punishment that may be enforced under any other Act in force.

(5) All steps shall be taken at the protective home to restrict or even deny the visiting rights of any one who may be considered to be a perpetrator, including the parent of the child.

(6) Notwithstanding any custom or law to the contrary, the dedication of a minor girl child as a devadasi, whether before or after the commencement of this Act, and whether she has consented to such dedication or not, is hereby declared unlawful, void, and to be of no effect and any minor girl child so dedicated shall not thereby be deemed to have become incapable of entering into a valid marriage.

(7) Any person who, after the commencement of this Act, abets the performance of any ceremony or any act for dedicating a minor girl child as a devadasi or and ceremony or act connected therewith shall, on conviction, be punished with imprisonment of either description for a term which may extend to 3 years and with fine which may extend to two thousand rupees:

Provided that where the person referred to in this section is the parent or guardian or a relative of the women so dedicated, he shall be punishable with imprisonment of either description which may extend to 5 years but which shall not be less than 2 years and with fine which may extend to five thousand rupees but which fine which may extend to five thousand rupees but which shall not be less than two thousand rupees.

### SECTION 13

*Other Provisions.*— (1) The Government shall create the State Children's Fund for raising and coordinating resources for achieving the purposes of this Act.

(2) There shall be credited to the fund such voluntary donations, contributions or subscriptions as may be made by any individual or organization.

(3) All fines imposed under this Act shall be credited to the Fund.

(4) The fund created under sub-section (1) above shall be administered in such manner and for such purposes as may be prescribed.

(5) There shall be a State Level Authority which may be called the State Commission for children to promote and maintain the best interests of all the children in Goa and which will carry out such functions as may be prescribed. The functions may include the following:—

(a) The creation of a Child Friendly Society;

(b) Preparing and implementing a systematic plan for spreading awareness amongst different groups, mobilization action and dialogue within civil society on Child Rights;

(c) Develop a capacity development strategy for the progressive implementation of Child Rights covering amongst others the training of teachers, police, judiciary etc;

(d) Review all State Legislations, Rules, Orders, Notifications, Schemes and all other provisions, pertaining to children and recommend necessary amendments therein, to ensure that the Rights of the child are protected.

(e) To monitor the implementation of the Convention on the Rights of the Child;

(f) To ensure that children become fit citizens and that all children are given the opportunity and encouraged to learn and develop thinking and participatory skills as well as skills of developing and articulating ideas;

(g) Set up a mechanism to hear complaints from child victims;

(h) Establish norms for good parenting and evolve a strategy for achieving this;

(i) Undertake and promote research in the field of child rights;

(j) Prepare disaggregated data on all children in Goa in terms of category, age, sex, etc.;

(k) Examine the situation regarding children particularly the status of the girl child, assess the reasons for discrimination and recommend strategies for their removal;

(6) The State Level Authority shall be constituted within a period of six months from the commencement of this Act.

(7) For finalizing all the Plans of Action, Government shall set up separate Steering Committees comprising persons with experience in that particular area, social workers, Government officers and others. Officers of the Central Government should participate in the

deliberations leading up to the Plans, and Government shall carry out visits to other States to see best practices specially in terms of rehabilitation, education and integration of children. The Steering Committees shall oversee the implementation of the Plans of Action.

(8) There shall be a village child committee which shall be constituted by each village panchayat. The committee shall comprise not less than five persons of whom one shall be a child above the age of 15 years and the other members shall comprise representatives from the village panchayat and social workers of whom at least 2 should be women. The village child Committee shall ensure the best interests of the child and will pay particular attention to providing recreational and play facilities for children. The Village Committee will also interact with the departments of the State Government in the implementation of the Plans of Action for elimination of child illiteracy, children on the streets, child prostitution and child labour, and will carry out such other functions as may be laid out from time to time.

(9) There shall be 4 or more such Child Committees in each Municipal/Corporation areas.

(10) The Government shall institute a system for recognizing and recording appreciation of outstanding work done by individuals, organizations or departments in achieving the best interests of the child under this Act.

(11) The Government shall carry out an awareness campaign after the commencement of this Act to appraise the public about the provisions and to solicit their cooperation. Sustained media advocacy will be taken up with NGOs, Women's Groups and others to create public awareness on the issues involved. Doordarshan, the print Media, Radio Private Television channels and cable networks and all other forms of media will be used.

(12) Appropriate guidelines for the protection of children from information and material injurious to their well being as well as harmful exposure in the mass media shall be prepared and implemented. For this purpose, the Government, with the assistance of the State Information Department, shall set up a State council comprising of persons from the media, and others, as may be prescribed.

(13) All persons appointed by the Government under this Act as Members of District Inspection Teams, Task Forces, Authorized Officers and others shall be persons with the highest credentials and integrity. Their proposed appointment and details shall be printed in the Official Gazette wherever they are non-Government staff and the members of the public shall be given two weeks time to file any complaint against any proposed appointment. The Government shall consider all complaints received before reaching a final decision and the appointments made will be notified in the Official Gazette.

(14) The Police Department shall formulate an exclusive Child Code including issues of Child Friendly Police Stations, interaction and behaviour with children, mandatory sensitisation programmes, etc.

(15) The Government shall constitute a Special Advisory Group to suggest ways to protect children from the harmful influences of the internet. The Special Advisory Group shall include, amongst others, experts in the field and members of the police.

(16) No child below the age of 14 shall be allowed unaccompanied inside any cyber cafe or any other establishment which provides any computer services to the general public against a cost.

(17) All establishments providing training to children through computers shall ensure that child friendly safeguards are installed and that no child below the age of fourteen has access to internet facilities other than in the presence of an adult from that establishment.

(18) The owners of such establishments under sub-sections 16 and 17 will be held responsible in case any child is accessing material or sites unsuitable for children.

(19) All such establishments under sub-sections 16 and 17 shall make their premises freely available to the Special Officers for inspection at any time.

(20) The use of children in the illicit procurement, trafficking and sale of narcotic, psychotropic and alcoholic substances is prohibited and anyone found guilty of transgression shall be severely punished.

(21) Anyone inducing a child to gamble or to assist in the gambling trade shall be liable to a punishment of imprisonment of either description for a period of not less than one year and a fine of not less than rupees fifty thousand.

(22) The state shall make special provision for the children of prisoners and commercial sex workers.

(23) The Competent Authority shall have the power to direct any registered Children's Home to accept any child/children in distress provided that the said Home has the facilities for taking care of the extra child/children.

(24) The decision of the Competent Authority as to who is a "child" shall be final and binding.

#### SECTION 15

*Powers of the Competent Authority.*— (1) If the Competent Authority is satisfied, whether upon information received or otherwise, of the violation of the rights of a child, he shall issue a notice, requiring the person or persons who the Competent Authority deems to be responsible for the violation and/or if that person or persons cannot be found then the employer, superior officer, relatives or any other person or persons who the Competent Authority is satisfied as to be responsible for the violation, and to take one or more of the following steps, within a period as may be fixed in the notice, and not exceeding sixty days in any case:—

(a) to dismiss the reference;

(b) direct the person or persons to take such steps as may be necessary in the best interests of the child;

(c) to levy a penalty (fine);

(d) refer the matter to any other authority including the Police;

(e) any other action the Competent Authority may deem fit and necessary including calling the person(s) for a personal hearing and directing that a child be removed.

Provided that the Competent Authority, for reasons to be recorded in writing, may extend the period specified in such notice.

(2) The Officer-in-charge of the Police Station of the area concerned where the violation reportedly took place shall be duty bound and responsible, when called upon by the Competent Authority or any Special Officer to provide all possible assistance including removing a child. The officer-in-charge of the police station, shall be answerable and responsible for non-compliance of the requisition made by the Competent Authority or by any Special Officer.

(3) The failure to comply with the directions contained in the notice under sub-section (1) shall be cognizable offence punishable with simple imprisonment for a term which may extend to 30 days or with fine which may extend to Rs. 5,000/-, or with both:

Provided that this failure may be compounded by the Competent Authority, if the person agree to pay a fine of Rs. 5,000/- in the first instance and Rs. 10,000/- in the second instance only. Provided further that this will not prejudice proceedings as per sub-section (1) of this section.

(4) The Competent Authority or any Special Officer may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Act including removal of a child from such premises.

Provided that—

(a) no such entry shall normally be made between sunset and sunrise except when the circumstances so warrant e. g. rescue of a child prostitute who has to work during night hours;

(b) all such entries shall be made by a group of a minimum of 4 persons to be prescribed, which shall include at least two women.

LA/F-3/5264/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 16-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Provisions of Facilities for  
Agricultural Credit By Banks  
Bill, 2004

(Bill No. 3 of 2004)

A

BILL

*to make better provision for the adequate supply of credits for increasing agricultural production and development in the State and for that purpose to remove any restrictions on alienations of certain agricultural lands, so that banks may provide credit on such agricultural lands, to provide for the speedy recovery of dues of such banks which provide credit; and to provide for matters connected with and incidental to the purpose aforesaid.*

BE it enacted by the Legislative Assembly of Goa in the Fifty fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—

(1) This Act may be called the Goa Provision of Facilities for Agricultural Credit by Banks Act, 2004.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "agriculture" of "agricultural purpose" includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, floriculture, high tech projects under agriculture, forestry, planting, farming and cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural products, their storage and transport and the acquisition of implements and machinery in connection with any such activity; and also including the purpose enumerated in section 111 of the Maharashtra Co-operative Societies Act, 1960.

(Maharashtra Act XXIV of 1961), as in force in the State of Goa;

(b) "agriculturist" means a person who is engaged in agriculture;

(c) "Agro-Industries Corporation" means a company or other body corporate, one of the principle objectives of which is to undertake activities connected with or intended for the development of agriculture, and not less than fifty-one percent of the paid up share capital of which is held by the Central Government or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;

(d) "bank" means.

(i) a banking company as defined in the Banking Regulations Act, 1949 (Act No. 10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Act No. 23 of 1955);

(iii) a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Act 38 of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Act 5 of 1970);

(v) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (Act No. 10 of 1949);

(vi) the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (Act No. 61 of 1981);

(vii) any Agro-Industries Corporation;

(viii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Act 1 of 1956);

(ix) any other financial institution notified by the State Government in the Official Gazette as a bank, for the purpose of this Act;

(e) "Co-operative society" means a co-operative society registered or deemed to be



registered under the Maharashtra Co-operative Societies Act, 1960. (Maharashtra Act XXIV of 1961), as in force in the State of Goa, and the object of which is to provide financial assistance to its members, and includes a co-operative land development bank;

(f) "financial assistance" means assistance granted by way of loans, advances, guarantee or otherwise for any agricultural purpose for purchase of shares of any co-operative agricultural processing society or any co-operative society undertaking land development or improvement works including lift irrigation;

(g) "Government" means the Government of Goa;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "notification" means a notification published in the Official Gazette;

(j) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa and includes any person appointed to assist the Registrar under section 3 of that Act.

3. *Removal of restrictions on alienation.*— Notwithstanding anything contained in any law for the time being in force or in any custom or usage which restrict the right to alienate any land or any interest therein, it shall be lawful for an agriculturist to alienate (whether by creation of a charge or mortgage on such land, or any other interest) any land to the extent of his right therein, or any right, title and interest he may have in the land, in favour of a bank for the purpose of obtaining financial assistance from that bank.

4. *Charge on crop and other movable property in favour of a bank.*— (1) It shall be lawful for such an agriculturist to create a charge on the movable property owned by him, or on the crops raised by him, standing or otherwise, or other produce from land cultivated by him, to the extent of his interest therein, in favour of a bank, to secure financial assistance from that bank, notwithstanding that he may be the owner of the land on or from which the crop or other produce is raised.

(2) Where a charge is created for any financial assistance given to an agriculturist by a bank, then notwithstanding anything to the contrary in the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa, no subsequent charge in respect of financial assistance provided by a co-operative society shall have priority over such charge on the crops raised by him, standing or otherwise, or any other movable property, in respect of any financial assistance given to him by the bank.

(3) A bank may distrain and sell, through an officer designated by the State Government in this behalf, the crop or other produce or any movables charged to that bank to the extent of the agriculturist's interest therein, and appropriate the proceeds of such sale towards all moneys due to the bank from that agriculturist.

5. *Creation of charge on land in favour of a bank by declaration.*— (1) Where an agriculturist creates a charge on land or any other immovable property, which he owns or in which he has an interest, in respect of any financial assistance given to him by a bank, he may make a declaration in accordance with the form set out in the Schedule or as near thereto as circumstances permit, declaring that thereby he creates, in favour of the bank, a charge on such land or his interest therein, or other immovable property, as the case may be, to secure the financial assistance provided to him by the bank.

(2) A declaration made under sub-section (1) may be varied, from time to time, by the agriculturist with the consent of the bank in whose favour the declaration has been made.

6. *Removal of disability in creation of charges and mortgages.*— Notwithstanding anything to the contrary contained in the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961) as in force in the State of Goa or any other law for the time being in force, and notwithstanding that any land or any interest therein stand already charged or mortgaged to a co-operative society, an agriculturist may create a charge on or mortgage such land or interest therein in favour of a bank as security for any financial assistance given to the agriculturist by that bank, provided that prior notice thereof is given by such agriculturist and by that bank to the co-operative society concerned.

**7. Priority of charges and mortgages in favour of a bank, Government and co-operative society.—**

(1) Notwithstanding anything to the contrary contained in any law for the time being in force,—

(a) any charge created or mortgage given by an agriculturist in favour of or to a bank, shall, after the commencement of this Act if prior in time, have priority over any subsequent charge or mortgage in favour of Government or a co-operative society; and

(b) any charge created or mortgage given on any land or interest therein, in favour of a bank, in respect of financial assistance given to an agriculturist by that bank, shall have priority over any other charge or mortgage in or over such land or interest therein in favour of any person other than Government or co-operative society or any other bank, notwithstanding that such charge or mortgage is prior in time to the charge or mortgage created in favour of the bank.

(2) Where different charges or mortgages on the same land or interest therein, are created by an agriculturist in favour of Government, one or more co-operative societies or one or more banks, any such charges created or mortgages given a security for financial assistance given by the Government, co-operative society or bank by way of term loan for development purposes, shall have priority any other charges or mortgages created or given in favour of Government, co-operative societies or banks, provided a notice of such financial assistance by way of term loan for development purposes have been given to such Government, co-operative society or bank, and that Government, co-operative society or bank has consented to the financial assistance being given; and where more than one such charge or mortgage is created or given a security for financial assistance by way of term loan, the charges or mortgages by way of security for the term loan for development purposes shall rank in priority interest in accordance with the dates of their creation.

**Explanation.—** For the purpose of this section, "term loan for development purposes" means financial assistance which will generally result in improvement of agriculture or the building up of tangible assets in agriculture, but does not include financial assistance for working capital expenses, seasonal agricultural operations or marketing crops/products.

(3) Nothing in this section shall apply—

(i) to borrowings only from one or more co-operative societies, and

(ii) to the recovery of sums due to the Government as arrears of land revenue.

**8. Registration of charge or mortgage in favour of a bank.—**Notwithstanding anything contained in the Registration Act, 1908 (Act 16 of 1908), it shall not be necessary to register a charge in respect of which a declaration has been made under sub-section (1) of section 5, or in respect of which a variation has been made under sub-section (2) of that section, or a mortgage executed by an agriculturist in favour of a bank and such charge, variation or mortgage shall have effect from the date it is created made. Provided that the bank sends within such time and in such manner as may be prescribed a copy of the instrument whereby the charge, variation or mortgage is created or made to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property charges or mortgaged is situated, and such Registering Officer shall file a copy or copies, as the case may be, in his Book No. 1 prescribed under section 51 of the Registration Act, 1988 (Act 16 of 1908).

**9. Nothing of charge or mortgage created in favour of a bank in record of rights.—** Whenever a charge is created or mortgage is given on land or interest therein, in favour of a bank in respect of financial assistance given to an agriculturist by that bank, the bank shall give intimation to the Talathi or such other Revenue Officer as may be designated in this behalf by the Government, of the particulars of the charge or mortgage in its favour. The Talathi or the other Revenue Officer shall make a note of the particulars of the charge or mortgage in the Record of Rights, relating to the land over which the charge or mortgage has been created. The bank shall likewise give an intimation to the Talathi or the other Revenue Officer as soon as the financial assistance given by it to the agriculturist ceases to be outstanding and thereupon the Talathi or the other Revenue Officer shall make a suitable note in the Record of Rights about release of the land from the charge or mortgage, as the case may be.

**10. Restriction on creation of tenancy by agriculturist borrower.—**(1) Notwithstanding anything contained in any law for the time being in force, an agriculturist who has availed himself of financial assistance from a bank by creating or

mortgage on land or interest therein, shall not, after he had availed of such assistance and so long as such assistance continues to be outstanding, lease that land or interest therein or create any tenancy right thereon, or enter into an agreement of sale without prior permission in writing of the bank.

(2) Any lease granted or tenancy rights created in contravention of this section shall be void.

11. *Recovery of dues of a bank.*— (1) Any amount due to the bank on account of financial assistance available by the agriculturist in pursuance of the provisions of this Act or the rules may be recovered in the same manner as an arrears of land revenue under the provisions of the Goa, Daman and Diu Public Moneys (Recovery of Dues Act, 1987 Goa Act 10 of 1987).

(2) Nothing in this section shall debar a bank from seeking relief from the Court of law to enforce its rights.

12. *Rights of bank to acquire and depose of immovable property.*— (1) Notwithstanding anything contained in any law for the time being in force, a bank shall have power to itself acquire agricultural land or interest therein or any other immovable property which has been charged or mortgage to it by an agriculturist in respect of any financial assistance availed of by him, provided, the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase it for a price which is sufficient to pay to the bank the moneys due to it.

(2) A bank which acquires land or interest therein or any other immovable property in pursuance of the power vested in it under sub-section (1) shall dispose it of by sale, within a period to be specified by the Government in this behalf.

(3) If the bank leases out any land acquired by it under sub-section (1) pending sale thereof as indicated in sub-section (2), the period of lease shall not exceed one year at a time and the lessee shall not acquire any right to purchase that property notwithstanding any provisions to the contrary contained in any other law for the time being in force.

(4) A sale by a bank of land or interest therein under this section shall be subject to any provisions of any law in force which may place restrictions on purchase of land by non-agriculturists or ceiling

for acquisition of land or interest therein or by a person not belonging to a particular tribe or scheduled caste fragmentation of land.

(5) That such land if sold due to attachment or non-payment of the loan shall remain to be tenanted land for purpose of use and further transfer and only the buyer from the financial institutions shall be allowed to purchase the same notwithstanding anything in the Tenancy Act.

13. *Exemption to banks from restrictions on acquisition of land in excess of ceiling.*— Nothing in any law for the time being in force placing a ceiling or limit on the holding of land shall apply to a bank acquiring land under this Act, and holding such land till time the bank sells the land in the manner provided in the last proceeding section or otherwise at a price which is adequate to cover its dues.

14. *Bank eligible to become member of co-operative society.*— Notwithstanding anything contained in the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961) as in force in the State of Goa, or the bye-laws of a resource society as defined in that Act or any law for the time being in force, it shall be lawful, for a bank to become a member of a co-operative society.

15. *Inspection of books of a co-operative society by a bank.*— (1) A bank shall have the right to inspect the books of any co-operative society, which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance given earlier.

(2) The inspection may be carried out by an official or any member of the paid staff of the bank, with the previous sanction in writing of the Registrar.

(3) The Officer or other member of the paid staff of the bank undertaking such inspection shall at all reasonable times, have access to the books of accounts, documents, securities, cash and other properties belonging to or in the custody of the co-operative society inspected by him, and shall also be supplied by such society such information, statements and returns as may be required by him to access the financial condition of the society and the safety of financial assistance to be given to the society or already given to it.

16. *Disputes between a bank and co-operative society.*— (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or

business of a co-operative society, between a bank financial a co-operative society and the co-operative society so financial, other than disputes regarding disciplinary action take by the society or its committee against a paid employee of the society, shall be referred by either of the parties to the dispute, to the Registrar for decision.

(2) Where any question arises whether for purposes of the foregoing sub-section, a matter referred to for decision is a dispute or not, the question shall be decided by the Registrar, whose decision shall be final.

17. *Settlement of Disputes.*— If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 16 of this Act, the Registrar shall decide the dispute himself or refer it for disposal to a nominee or a board of nominees by him or any other authority competent to decide such dispute under the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force to the State of Goa, and thereafter all the provisions of that relating to disputes, such as determination of disputes, shall *mutatis mutandis* apply, as if it were a dispute within the meaning of and under that Act itself.

18. *Recovery of money awarded.*— The provisions of section 156 of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa, and the rules made thereunder shall also apply to the recovery of any amount found due to a bank.

19. *Powers of a bank to proceed against defaulting members of a co-operative society.*— (1) If a co-operative society is unable to pay its debts to a bank from which it has borrowed by reason of its members defaulting in the payment of the moneys due by them, the bank may direct the committee of such society to proceed against such members by taking all such action as is by the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force to the State of Goa.

(2) If the committee of the co-operative society fails to proceed against the defaulting members within a period of ninety days from the date of receipt of such directions from the bank, the bank itself may, under intimation to the Registrar, proceed against such defaulting members in which event, the provisions of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act

XXIV of 1961), as in force in the State of Goa, and the rules and bye-laws made thereunder shall apply, as if all references to the society or its committee in the said provisions, rules and bye-laws were references to the bank.

(3) Where a bank has obtained a decree or award against a co-operative society indebted to it, the bank may proceed to recover such moneys firstly from the assets of the co-operative society to the extent of debts due to the society.

20. *Audit, inquiry and inspection reports of societies be available to banks.*— The Registrar shall draw the attention of a bank financing a co-operative society to the defects noticed in every audit or inquiry or inspection conducted under the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa, and shall also supply to the bank a copy each of such audit, inquiry or inspection report, if demanded, in writing by it.

21. *Exemption from legislations relating to money lending and relief of agricultural indebtedness.*— Nothing contained in the Goa, Daman and Diu Money Lender Act, 1977 (Act 7 of 1977), or any other law relating to money/lending and money lenders or in any law relief of agricultural indebtedness for the time being in force shall apply to financial assistance availed of by an agriculturist from a bank.

22. *Mortgages not to be questioned on insolvency of mortgagers.*— Notwithstanding anything contained in the Goa, Daman and Diu (Extension of the Provincial Insolvency Act) Act, 1967 (Act I 1968), or any corresponding law for the time being in force, a mortgage executed in favour of a bank shall not be called in question in any insolvency proceedings on the ground that it was not executed in good faith for valuable consideration on the ground that it was executed in order to give the bank a preference over other creditors of the mortgager.

23. *Power of State Government to make rules.*— (1) The power to make rules under this Act, shall be exercisable by the State Government by Notification in the Official Gazette and shall be subjected to the condition of previous publication.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to carry out the purpose of this Act.

SCHEDULE

Declaration under sub-section (1) of section 5

I, ..... (aged ..... years) residing at ..... being desirous of availing myself of financial assistance from the ..... Bank ..... Make this declaration as required by section 5 (1) of the Goa Provision of Facilities for Agricultural Credit by Banks Act, 2004 that I, ....., own the land/ /have interest as a tenant in the land, in the area specified below, and I hereby create a charge on the said land/ /interest in the said land, in favour of the bank for securing the financial assistance which the bank may give and for all future assistance if, any, which the bank may give to me together with interest and costs and expenses thereon.

The necessary previous sanction of the Mamlatdar as required under section 18K of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), is enclosed herewith.

Name of Village	Name of Taluka	Name of District	Survey No./ /City		Boundaries South North		Areas Hectares
			Plot	Plot	East	West	

Assessment Rupees Paise	Approximate Value	Nature	Encumbrances, if any When amount created	Remarks, if any
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In witness whereof, I, Shri ..... hereunder set my hand this ..... day of ..... in the year Two thousand .....

Witnesses:

Signed and delivered by the abovenamed in the presence of

(1)

(2)

Attested by .....

Signature of the declarant

Forwarded with compliments to the Talathi or other designated Revenue Officer with request to include the particulars of the charge ..... created under the declaration in the Record of Rights and to return to the bank for its record.

Manager/Agent  
..... Bank

Date .....

Place .....

Returned with compliments to the Manager/Agent ..... Bank.

The charge created under the declaration is duly included in the Record of Rights, on the ..... Day of ..... 200 .....

Date .....

Talathi or other designated  
Revenue Officer

Forwarded with compliments to the Sub-Registrar, with a request to record the particulars of the charge ..... created under the declaration in his office.

Manager/Agent

..... Bank

Date .....

Place .....

Returned with compliments to the Manager/Agent ..... Bank. The charge created under the declaration is duly recorded.

Date .....

Sub-Registrar

### Statement of Objects and Reasons

It is found expedient to make better provisions for the adequate supply of credits for increasing agricultural production for development in the State and for that purpose to remove any restrictions on alienation of certain agricultural lands so that banks may provide credit on such agricultural land so also, to provide for the speedy recovery of dues of such banks and for matters connected with or incidental to the purpose aforesaid.

This Bill seeks to achieve above objects.

### Financial Memorandum

There are no financial implications.

### Memorandum on Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim-Goa, PANDURANG MADKAIKAR  
9th February, 2004. Minister for Revenue

Assembly Hall, S. A. Narvekar  
Porvorim, Goa, Secretary (Legislature).  
9th February, 2004.